

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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GREGORY P. KRUSEC,

Plaintiff,

v.

OPINION and ORDER

15-cv-498-jdp

KILOLO KIJAKAZI,  
Acting Commissioner of  
Social Security,<sup>1</sup>

Defendant.

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Attorney Jim Brown, counsel for claimant Greg Krusec, had until May 30, 2022, to file a motion for attorney fees under 42 U.S.C. § 406(b) for his work in this case before this court. Dkt. 24. Brown now says that he will not request attorney fees for his work in this court; instead, he will file a fee petition with the Social Security Administration for work he performed at the agency level pursuant to § 406(a). Dkt. 25.

In an order in another case, *Krusec v. Kijakazi*, No. 18-cv-120-jdp (W.D. Wis), the court ordered the agency to continue withholding a portion of Krusec's benefit award reserved for attorney fees until Brown filed his motion for attorney fees in this case. *See Krusec*, No. 18-cv-120-jdp, at Dkt. 50.<sup>2</sup> Brown now asks the court to order the agency to continue withholding those funds so that he can file a fee petition with the agency. Dkt. 25. The motion will be granted. The size of Brown's fee for his work at the administrative level is a matter reserved for the agency. *See* 42 U.S.C. § 406(a)(1). But the court discerns no harm in ordering the agency

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<sup>1</sup> The court has updated the caption pursuant to Federal Rule of Civil Procedure 25(d).

<sup>2</sup> The order was also docketed in this case, at Dkt. 20.

to continue withholding the remaining funds until the agency has processed Brown's fee petition, and it will be simpler for Brown to seek 406(a) fees directly from the agency as opposed to the claimant. If Brown does not file a petition by the date below, the agency may release the remaining funds to Krusec.

ORDER

IT IS ORDERED that:

1. Claimant's attorney's motion to continue reserving the remaining balance of the withheld fees, Dkt. 25, is GRANTED. Attorney Brown may have until June 30, 2022, to submit a fee petition to the agency. If Brown does not file a petition by that date, the agency may release the remaining funds.
2. The clerk of court is directed to docket this order in case No. 18-cv-120-jdp.

Entered June 2, 2022.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge